IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 5251 of 2005

Between:

The Agricultural Market Committee, Karimnagar,
Rep by its Chairman, K. Linga Reddy,
S/o. Raghupathi Reddy, aged 41 years, R/o. Karimnagar, Karimnagar District.

..... PETITIONER

AND

1 The Government of India, rep by its Secretary,
Ministry of Finance, New Delhi.
2 The Director of Income Taxes (Exemptions),
Andhra Pradesh, Hyderabad.
3 The Joint Director of Income Tax, Karimnagar,
Karimnagar District.
4 The Assistant Commissioner Income Tax, Karimnagar, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records on the file of the 2nd respondent in file F.No. DIT(E)/12A/97(07)/2004-05 dt. 25-11-2004 is illegal, arbitrary and against Art. 14 of the Constitution of India and quash the same and consequently direct the 2nd respondent to re-consider the application of the petitioner for registration under Sec.

12(a) of the Income Tax Act and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.V.N.NARAYANA RAO

Counsel for the Respondents: MR.J.V.PRASAD (SC FOR INCOME TAX)

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed by the Agricultural Market Committee, Karimnagar, assailing the order, dated 25.11.2004, passed by the 2nd respondent – The Director of Income Taxes (Exemptions), Hyderabad.

2. It is the case of the petitioner that it filed an application under Section 12(a) of the Income Tax Act, 2002 to get itself registered as a charitable institution, but the 2nd respondent rejected the said application vide proceedings F.No.DIT. (E)/12.A/97(07)/2004-2005, dated 25.11.2004. Against the said order the present Writ Petition has been filed.

3. At the threshold, the learned standing counsel for the Income Tax submits that there is a statutory appeal against the order, dated 25.11.2004, passed by the 2nd respondent before the appellate authority, and therefore, the Writ Petition itself is not maintainable. This preposition is not disputed by the learned counsel for the petitioner.

4. In the wake of the statutory provision, we are not inclined to admit the Writ Petition and the same is disposed of with a direction that the petitioner shall file an appeal before the appellate authority in accordance with law and obtain appropriate interim orders. However, to enable the petitioner to approach the appellate authority, we direct that the respondents shall not take coercive steps for a period of four weeks from the date of receipt of a copy of this order.

5. With the direction indicated above, the Writ Petition is disposed of. No costs.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 07.04.2005

ES

Note:- Issue CC in two days.

B/o.

ES

To

1 The Secretary, Government of India,
Ministry of Finance, New Delhi.
2 The Director of Income Taxes (Exemptions),
Andhra Pradesh, Hyderabad.
3 The Joint Director of Income Tax, Karimnagar,
Karimnagar District.
4 The Assistant Commissioner Income Tax, Karimnagar, Karimnagar District.

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